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PAGE 01 STATE 180060

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TAGS: PFOR, PLOS, TU, GR

SUBJECT: TURKISH SISMİK VESSEL

1. THE FOLLOWING IS PROVIDED FOR YOUR BACKGROUND ONLY
CONCERNING DEPT'S INITIAL INTERPRETATION OF HOW 1958 CON-
TINENTAL SHELF CONVENTION COULD APPLY TO THE OPERATIONS
OF SISMİK I IN THE AEGEAN. (GREECE ACCEDED TO THE CON-
VENTION WITH RESERVATION RESPECTING THE SYSTEM OF DE-
LIMITING BOUNDARIES OF THE CONTINENTAL SHELF FOR STATES
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PAGE 02 STATE 180060

WHOSE COASTS ARE ADJACENT OR OPPOSITE EACH OTHER. TURKEY,

WHILE NOT A PARTY TO THE CONVENTION, HAS CITED ITS "SPECIAL CIRCUMSTANCES" PROVISION TO SUPPORT ITS POSITION.)

2. ASSUMING THE STRONGEST POSSIBLE LEGAL CASE FOR GREECE, THAT THE CONTINENTAL SHELF AREA INVOLVED IN THESE SEISMIC EXPLORATIONS IS UNDER GREEK JURISDICTION, THE LEGAL SITUATION IS AS FOLLOWS:

A. IF IT IS COMMERCIAL EXPLORATION THAT IS INTENDED, THEN GREECE, AS THE COASTAL STATE HAS THE EXCLUSIVE RIGHT TO EXPLORE THE CONTINENTAL SHELF, AND TURKEY WOULD HAVE NO RIGHT WHATSOEVER TO UNDERTAKE ANY KIND OF EXPLORATION WITHOUT GREEK CONSENT.

B. IF IT IS SCIENTIFIC RESEARCH THAT IS INTENDED, THEN TURKEY HAS THE RIGHT TO CARRY OUT SUCH RESEARCH BEYOND THE TERRITORIAL SEA. HOWEVER, ARTICLE 5, PARAGRAPH 8 OF THE CONTINENTAL SHELF CONVENTION REQUIRES THE CONSENT OF THE COASTAL STATE FOR RESEARCH CONCERNING THE CONTINENTAL SHELF AND UNDERTAKEN THERE. THE UNITED STATES HAS CONSISTENTLY INTERPRETED THIS LAST PHRASE "AND UNDERTAKEN THERE" AS REQUIRING PHYSICAL CONTACT WITH THE SEABED. SINCE THERE ARE WAYS OF CONDUCTING SEISMIC WORK THAT DO NOT INVOLVE PHYSICAL CONTACT, TURKEY'S IMPENDING PROJECT, IF IT IS IN FACT SCIENTIFIC, MAY BE LEGAL AND GREEK NERVOUSNESS, THEREFORE, LEGALLY UNFOUNDED. A CLARIFICATION OF THE TYPE OF SEISMIC WORK PLANNED BY TURKEY IS NEEDED IN ORDER TO REACH A SOUND CONCLUSION ON THIS APPLICATION OF THE LAW. (SEE ARTICLE 5, PARAGRAPHS 1 AND 8 OF THE CONTINENTAL SHELF CONVENTION.)

C. SINCE THE WATERS ABOVE THE CONTINENTAL SHELF ARE HIGH SEAS, GREECE HAS NO RIGHT TO ARREST A SCIENTIFIC RESEARCH VESSEL THAT IS NOT IN PHYSICAL CONTACT WITH THE BOTTOM AT THE TIME OF ARREST; IF IT BELIEVES SUCH A VESSEL IS ENGAGED IN UNLAWFUL ACTIVITIES, IT MAY REQUEST IT TO STOP.

3. EVEN IF THE SEISMIC WORK WOULD INVOLVE PHYSICAL CONTACT WITH THE SEABED, GREECE COULD CONSENT ON THE GROUNDS

CONFIDENTIAL

PAGE 03 STATE 180060

THAT CONSENT FOR SCIENTIFIC RESEARCH SHOULD NOT ORDINARILY BE DENIED UNDER THE CONVENTION, AND THUS PRESERVE HER POSTURE OF THE LEGITIMATE COASTAL STATE.

4. SINCE, HOWEVER, IT IS MORE LIKELY THAT THE CONTINENTAL SHELF AREA INVOLVED IN THESE TURKISH EXPLORATIONS WILL BE, IN PART, THAT AREA THAT IS AS YET UNDEFINED AND IN DISPUTE BETWEEN GREECE AND TURKEY, THE GREEK LEGAL

POSITION BECOMES WEAKER ON ALL COUNTS. THE POINT IS THAT EVEN IF GREECE WAS RECOGNIZED AS THE UNDISPUTED COASTAL STATE FOR A GIVEN CONTINENTAL SHELF AREA, THE CONVENTION ACCORDS A LATITUDE OF FREEDOM FOR SCIENTIFIC RESEARCH.

5. THE U.S. CONTINUES TO REGARD THREE NAUTICAL MILES AS THE MAXIMUM PERMISSIBLE LIMIT FOR THE TERRITORIAL SEA. THEREFORE, FROM THE POINT OF VIEW OF THE U.S., TURKEY WOULD BE IN VIOLATION OF GREEK TERRITORIAL SEAS ONLY IF

HER SEISMIC VESSEL CONDUCTED ANY TYPE OF EXPLORATION, EITHER COMMERCIAL OR SCIENTIFIC, WITHIN THREE MILES OF THE COAST OF GREECE OR OF THE GREEK ISLANDS EXCEPTING THOSE AREAS WHICH ARE WITHIN THREE MILES OF TURKEY. OUTSIDE OF THE THREE-MILE LIMIT, THE LEGAL STATUS OF THE AREA IS HIGH SEAS, SUBJECT TO THE COASTAL STATE'S RIGHTS WITH REGARD TO SEABED AND SUBSOIL RESOURCES OF THE CONTINENTAL SHELF AND THE LIMITED SCIENTIFIC RESEARCH RIGHT. NOTWITHSTANDING THE FOREGOING, WE ARE AWARE THAT BOTH GREECE AND TURKEY CLAIM SIX-MILE TERRITORIAL SEA LIMITS IN THE AEGEAN, INCLUDING THOSE ISLANDS NOT IN PROXIMITY TO THE TURKISH COAST. KISSINGER

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